

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE CAPACITORS ANTITRUST
LITIGATION**

**MDL Case No. 17-md-02801-JD
Case No. 3:14-cv-03264-JD**

This Document Relates to:
All Indirect Purchaser Actions

**~~[PROPOSED]~~ ORDER GRANTING
INDIRECT PURCHASER PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENTS WITH
HOLYSTONE, NCC/UCC, AND
RUBYCON AND FOR APPROVAL OF
THE PLAN OF ALLOCATION**

Indirect Purchaser Plaintiffs (“IPPs”) filed a Motion for Preliminary Approval of Settlements with Defendants (1) Holystone Enterprise Co., Ltd., Holy Stone Holdings Co., Ltd., Holy Stone Polytech Co., Ltd., and Milestone Global Technology, Inc. (together, “Holystone”), (2) Nippon Chemi-con Corp. and United Chemi-con Corp. (together, “NCC/UCC”), and (3) Rubycon Corp. and Rubycon America Inc. (together, “Rubycon”) (collectively, “Settling Defendants”), and for Approval of the Plan of Allocation relating to the above-referenced settlements as well as settlements with Defendants (4) Hitachi Chemical Co., Ltd., Hitachi AIC Inc., and Hitachi Chemical Co. America, Ltd., (together, “Hitachi Chemical”), and (5) Soshin Electric Co., Ltd. and Soshin Electronics of America, Inc. (together, “Soshin”) (collectively, “Round 2 settlements”).

The Court heard the argument of counsel and, having reviewed the pleadings, the settlement agreements, other papers on file in this action, and the statements of counsel and the parties, hereby finds that the motion should be **GRANTED**.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. For purposes of this Order, except as otherwise set forth herein, the Court adopts and incorporates the definitions contained in the settlement agreements.
2. The Court preliminarily approves the settlement agreements with Holystone, NCC/UCC and Rubycon.
3. The Court finds that the Holystone, NCC/UCC and Rubycon settlements fall within the range of possible final approval;
4. Pursuant to Federal Rule of Civil Procedure (“Rule”) 23, the Court certifies the following settlement classes for purposes of this motion only:

With regards to NCC/UCC and Rubycon:

- a. All persons and entities in the United States who, during the period from April 1, 2002 to February 28, 2014, purchased one or more Electrolytic Capacitor(s) from a distributor (or from an entity other than a Defendant) that a Defendant or alleged co-conspirator manufactured.

1 Excluded from the Class are Defendants, their parent companies,
2 subsidiaries and Affiliates, any co-conspirators, Defendants' attorneys in
3 this case, federal government entities and instrumentalities, states and
4 their subdivisions, all judges assigned to this case, all jurors in this case,
5 and all persons and entities who directly purchased Capacitors from
6 Defendants.

- 7 b. All persons and entities in the United States who, during the period from
8 January 1, 2002 to February 28, 2014 purchased one or more Film
9 Capacitor(s) from a distributor (or from an entity other than a
10 Defendant) that a Defendant or alleged co-conspirator manufactured.
11 Excluded from the Class are Defendants, their parent companies,
12 subsidiaries and Affiliates, any co-conspirators, Defendants' attorneys in
13 this case, federal government entities and instrumentalities, states and
14 their subdivisions, all judges assigned to this case, all jurors in this case,
15 and all persons and entities who directly purchased Capacitors from
16 Defendants.

17 With regards to Holystone:

- 18 a. All persons and entities in the United States who, during the period from
19 April 1, 2002 to February 28, 2014, purchased one or more Electrolytic
20 Capacitor(s) from a distributor (or from an entity other than a
21 Defendant) that a Defendant or alleged co-conspirator manufactured.
22 Excluded from the Class are Defendants, their parent companies,
23 subsidiaries and Affiliates, any co-conspirators, Defendants' attorneys in
24 this case, federal government entities and instrumentalities, states and
25 their subdivisions, all judges assigned to this case, all jurors in this case,
26 and all persons and entities who directly purchased Capacitors from
27 Defendants.


- 1 5. The Court further finds that the prerequisites to certifying settlement classes
2 under Rule 23 are satisfied for settlement purposes in that (a) there are at least
3 thousands of geographically dispersed settlement class members, making
4 joinder of all members impracticable; (b) there are questions of law and fact
5 common to the settlement classes which predominate over individual issues; (c)
6 the claims or defenses of the class representatives are typical of the claims or
7 defenses for the settlement classes; (d) IPPs will fairly and adequately protect
8 the interests of the settlement classes and have retained counsel experienced in
9 antitrust class action litigation who have, and will continue to, adequately
10 represent the settlement classes; and (e) resolution throughout class settlements
11 is superior to individual settlements.
- 12 6. The Court hereby appoints the Class Representatives named in the Indirect
13 Purchaser Plaintiffs' Fifth Consolidated Complaint (February 2, 2017) (ECF
14 No. 1589) as Representative Plaintiffs of the settlement classes.
- 15 7. The Court hereby appoints the law firm Cotchett, Pitre & McCarthy, LLP as
16 Settlement Class Counsel.
- 17 8. Settlement Class Counsel and their designees are authorized to expend funds
18 from the escrow accounts to pay taxes, tax expenses, notice, and administration
19 costs as set forth in the Settlement Agreements.
- 20 9. All further Indirect Purchaser class proceedings as to Defendants Holystone,
21 NCC/UCC and Rubycon are hereby stayed except for any actions required to
22 effectuate the settlements.
- 23 10. The Court retains exclusive jurisdiction over this action to consider all further
24 matters arising out of or connected with the settlements.
- 25 11. The Court finds that there is a sufficient basis for notifying the settlement
26 classes of the proposed settlements.

a. Whether the proposed settlements are fair, reasonable, and adequate and should be granted final approval;

c. Such other matters as the Court may deem appropriate.

14. All briefs, memoranda, and papers in support of final approval of the settlement shall be filed no later than **September 13, 2018**.

IT IS SO ORDERED.



JAMES DONATO
United States District Judge